

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.610, 12.11.615, and) PROPOSED AMENDMENT
12.11.620 regarding recreational use)
rules on the Bitterroot River, Blackfoot)
River, and Clark Fork River

TO: All Concerned Persons

1. On June 16, 2011 at 6:00 p.m. the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Region 2 office located at 3201 Spurgin Road, Missoula, Montana to consider the proposed amendment of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than June 10, 2011, to advise us of the nature of the accommodation that you need. Please contact Jessica Fitzpatrick, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; e-mail jfitzpatrick@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.11.610 BITTERROOT RIVER ~~(1) Bitterroot River is closed to use for any motor propelled watercraft in the following areas:~~

~~(a) Missoula County from the Ravalli County line to its confluence with the Clark Fork River with the following exceptions:~~

~~(i) any motorized watercraft may be used from May 1 through June 30 on the portion of the Bitterroot River from the Florence Bridge in Ravalli County downstream to the Clark Fork River;~~

~~(b) in Ravalli County from the Bitterroot River headwaters to the Missoula County line with the following exceptions:~~

~~(i) any motorized watercraft may be used from May 1 through June 30 on the portion of the Bitterroot River from the Florence Bridge in Ravalli County downstream to the Clark Fork River;~~

~~(2) Motorized watercraft powered by 15 horsepower or less may operate anywhere on the Bitterroot River from October 1 through January 31.~~

(1) Bitterroot River is closed to use of any motor propelled watercraft except:

(a) watercraft powered by 20 horsepower or less are permitted from October 1 through January 31; and

(b) any motorized watercraft are permitted between Florence Bridge in Ravalli County and the Buckhouse Bridge on Highway 93 in Missoula County from May 1 through June 15.

AUTH: 23-1-106, 87-1-303, MCA;
IMP: 23-1-106, 87-1-303, MCA

12.11.615 BLACKFOOT RIVER ~~(1) The Blackfoot River is limited to a controlled no wake speed, as defined in ARM 12.11.101(1) in the following areas:~~

~~(a) in Missoula County downstream from the Stimson Lumber Company chainlink fence, as posted, to and including the Milltown Reservoir, then upstream on the Clark Fork River to the old Milwaukee Railroad Bridge pilings.~~

~~(2) The Blackfoot River is closed to use for any motor propelled watercraft in the following areas:~~

~~(a) in Lewis and Clark County, the Blackfoot River and tributaries from their headwaters to the Powell County line;~~

~~(b) in Missoula County, the Blackfoot River and its tributaries from Missoula County line to the Stimson Lumber Mill Dam at Bonner; and~~

~~(c) in Powell County, the Blackfoot River and tributaries from the Lewis and Clark County line to the Missoula County line.~~

(1) The Blackfoot River and its tributaries from its headwaters to the confluence with the Clark Fork River is closed to use for any motor propelled watercraft.

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-106, 87-1-303, MCA

12.11.620 CLARK FORK RIVER ~~(1) The Clark Fork River is closed to use for any motor propelled watercraft in the following areas:~~

~~(a) in Deer Lodge County;~~

~~(i) the Clark Fork River and tributaries from their headwaters to the Powell County line;~~

~~(b) in Granite County;~~

~~(i) the Clark Fork River and tributaries from Powell County line to Missoula County line;~~

~~(c) in Mineral County;~~

~~(i) the Clark Fork River from St. John's fishing access site to the mouth of Fish Creek, also known as the Alberton Gorge Whitewater section;~~

~~(d) in Missoula County;~~

~~(i) the Clark Fork River and tributaries from the Granite County line to the Milwaukee Bridge abutments on Milltown Reservoir;~~

~~(ii) the Clark Fork River from the north side of the Interstate Bridge nearest East Missoula to the Fish, Wildlife and Parks fishing access site and boat ramp located off Spurgin Road and Kelly Island, from July 1 through September 30; and~~

~~(e) in Powell County;~~

~~(i) the Clark Fork River and tributaries from Deer Lodge County line to the Granite County line.~~

(1) The Clark Fork River:

(a) and its tributaries are closed to any motor propelled watercraft from the headwaters to the confluence with the Bitterroot River;

(b) is restricted to motor propelled watercraft 20 horsepower or less from the confluence with the Bitterroot River to the Interstate Bridge east of Ninemile Creek; and

(c) is closed to any motor propelled watercraft from St. Johns Fishing Access Site to the mouth of Fish Creek.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

Reasonable Necessity: The commission is proposing reorganizing the structure of ARM 12.11.610, 12.11.615, and 12.11.620 consistent with the flow of the river instead of basing the structure on county lines.

The commission is proposing amending ARM 12.11.610 to increase the horsepower of motorized watercraft allowed on the Bitterroot River from October 1 through January 31 from 15 to 20 horsepower because 20 horsepower is typically the largest portable motor available. The commission is proposing a decrease in the number of days and the section of river where any motorized watercraft may be used on the Bitterroot River. Currently, any motorized watercraft may be used from May 1 through June 30 on the portion of the Bitterroot River from the Florence Bridge in Ravalli County downstream to the Clark Fork River. The commission is proposing decreasing the days allowed by 15 days ending on June 15 and reducing the affected section of river to end at Buckhouse Bridge. The commission is proposing shortening the time any motorized watercraft may be allowed to reduce overlap between spring water use of large, fast-moving watercraft and more summertime use by slower, less maneuverable watercraft, wade anglers, and swimmers. The portion of the Bitterroot River downstream from Buckhouse Bridge is more urban with residences near the river and heavily used for nonmotorized recreation. Restricting motorized use addresses issues with noise and unsafe conditions associated with high horsepower watercraft. Watercraft powered by 20 horsepower or less will be allowed from October 1 through January 31 maintaining a time period in the fall for uses including waterfowl hunting.

Milltown Dam was removed in March 2008 making portions of ARM 12.11.615 and 12.11.620 obsolete. The Blackfoot River and its tributaries are closed to motorized watercraft. The proposed rule amendment would extend the closure of motorized use on the Blackfoot River to its confluence with the Clark Fork River, a section of river less than one mile, and extend the closure of motorized use on the Clark Fork River for less than one mile to its confluence with the Blackfoot River where Milltown Reservoir previously existed. Furthermore, the proposed amendment to ARM 12.11.620 would extend the closure of motorized use on the Clark Fork River and its tributaries from the confluence with the Blackfoot to its confluence with the Bitterroot River. This would help address social conflicts and safety concerns on a relatively narrow section of the river that is popular among other users that are, at times, not compatible with large, fast-moving watercraft. Use in this section of river is expected to increase with the removal of Milltown Dam that was a barrier to watercraft use traveling from above the Milltown area to urban

Missoula, as well as the popularity and development of recreational waves and river access.

Below the Clark Fork River's confluence with the Bitterroot River downstream to just above Ninemile Creek, the amendments would reduce the horsepower to 20 horsepower from currently being unrestricted. This is intended to reduce social conflicts and safety concerns in a stretch of river from the confluence of the Bitterroot to Harpers Bridge FAS that is popular with other users. Below Harpers Bridge FAS to about Ninemile Creek, the amendment promotes a unique and more remote experience by limiting horsepower and therefore the speed a boat can travel this section. This will limit encounters with other boats, or the number of times a single boat will be encountered.

4. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Sharon Rose, Fish, Wildlife and Parks, 3201 Spurgin Rd., Missoula, MT 59804; fax 406-542-5529; e-mail shrose@mt.gov, and must be received no later than June 27, 2011.

5. Mack Long or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

6. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Bob Ream
Bob Ream, Chairman
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter
Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State May 16, 2011